

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

Criminal Revision No.251 of 1997
Date of Decision : May 27, 2010

Madan Lal	VersusPetitioner
State (Chandigarh Administration)	Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S. MANN

Present : Mr. D.S. Malwai, Advocate as
Amicus Curiae for the petitioner.

Mr. Rajiv Sharma, Advocate
for Union Territory, Chandigarh.

T.P.S. MANN, J. (Oral)

The petitioner was tried for the offence punishable under Section 16(1)(a)(i) read with Section 7 of the Prevention of Food Adulteration Act on the allegations that on 13.6.1990, he was found in possession of about 500 bottles of sweetened carbonated water (orange) for sale in village Darua and the sample drawn therefrom was found to contain brominated vegetable oil, use of which was not permitted. Vide judgment and order dated 13.9.1994, learned Chief Judicial Magistrate, Chandigarh convicted the petitioner for the aforementioned offence and sentenced him to undergo rigorous imprisonment for six months and to pay a fine of Rs.1,000/- and in default of payment of fine, to undergo further rigorous imprisonment for one month. The amount of fine was paid.

Aggrieved of his conviction and sentence, the petitioner filed

an appeal but the same was dismissed by learned Additional Sessions Judge, Chandigarh on 1.3.1997 by maintaining his conviction and sentence.

Learned counsel for the petitioner has not challenged the conviction of the petitioner. However, he has submitted that the sample was drawn from the petitioner on 13.6.1990. After receipt of the report from the Chemical Examiner, the criminal proceedings were initiated against the petitioner in the month of October, 1990 when a criminal complaint was filed by the Food Inspector. Ever since then, the petitioner has been facing the agony of criminal prosecution. The present revision has remained pending in this Court for the last more than 13 years. Consequent upon the dismissal of his appeal by the lower appellate Court, the petitioner was taken into custody on 1.3.1997 and it was only on 18.3.1997 that he was granted the concession of bail during the pendency of his revision. Therefore, the substantive sentence of the petitioner be reduced to that already undergone by him.

Learned counsel representing the Union Territory of Chandigarh has opposed the prayer made on behalf of the petitioner by submitting that as the sweetened carbonated water (orange) sold by the petitioner was found adulterated, therefore, the petitioner has rightly been sentenced to minimum imprisonment and fine and the same cannot be reduced.

In ***Parshadi V State of Haryana*** 2004(2) R.C.R. (Criminal) 360, the sentence of a similarly situated accused, who stood convicted under Section 7 read with Section 16(1)(a)(i) of the Act was reduced to

that already undergone by him as he had been facing the trial for a period of fourteen years. However, his fine was enhanced. While doing so, the Court relied upon a number of judgments, viz, **Mahavir V. State through Govt. Food Inspector**, 2000(4) RCR(Crl.) 208, **Behari Lal V. State of (U.T.) Chandigarh**, 2000(1) RCR(Crl.) 222, **Des Raj V. The State of Haryana**, 1996(1) RCR 689, **Vijay Kumar V. The State of Haryana** 1996 (2) RCR(Crl.) 554 (P&H), **Mohinder Singh V. State (Chandigarh Administration)**, 1997(2) RCR(Crl.) 168 (P&H) and **Satpal V. State of Haryana**, 1997(4) RCR(Crl.) 15 (P&H).

In **Narinder Kumar V. State of Haryana** 2008(2) All India Criminal Law Reporter 288, this Court, once again, reduced the sentence of a similarly situated convict to that already undergone by him as the occurrence pertained to the year 1984.

It is a fact that the sword of criminal prosecution has remained hanging on the head of the petitioner for the last more than 20 years. The present revision has remained pending in this Court for more than 13 years. Out of the sentence of six months imposed upon him, the petitioner has already undergone a period of three weeks. When the petitioner was heard by the trial Court on the quantum of sentence, he had pleaded that he was a young person of 27 years of age and had a long way to go. There is no material on the file that the petitioner is a previous convict or that he is involved in any other crime. Keeping in view the observations made by different High Courts in the aforementioned judgments, I am of the view that no useful purpose would be served by sending the petitioner behind the bars, once again, so as to undergo

remainder of his sentence. Ends of justice would be amply met if the substantive sentence of the petitioner is reduced to that already undergone by him and at the same time enhancing the fine of Rs.1,000/- to Rs.10,000/-.

Resultantly, the conviction of the petitioner for the offence under Section 16(1)(a)(i) read with Section 7 of the Prevention of Food Adulteration Act is maintained. His substantive sentence of imprisonment is reduced to that already undergone by him. The fine of Rs.1,000/- is enhanced to Rs.10,000/-. The enhanced amount of fine be deposited by the petitioner with the trial Court within three months from today, failing which he shall be required to undergo rigorous imprisonment for three months.

The revision is, accordingly, disposed of.

May 27, 2010
satish

(T.P.S.MANN)
JUDGE